

109TH CONGRESS
2D SESSION

S. 3627

To prohibit the Department of Defense and the Department of Energy from selling, distributing, or transferring elemental mercury, to prohibit the export of elemental mercury, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2006

Mr. OBAMA introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To prohibit the Department of Defense and the Department of Energy from selling, distributing, or transferring elemental mercury, to prohibit the export of elemental mercury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mercury Market Mini-
5 mization Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) mercury and mercury compounds are highly
2 toxic to humans, ecosystems, and wildlife;

3 (2) as many as 10 percent of women in the
4 United States of childbearing age have mercury in
5 the blood at a level that could put a baby at risk;

6 (3) as many as 630,000 children born annually
7 in the United States are at risk of neurological prob-
8 lems related to mercury;

9 (4) the most significant source of mercury expo-
10 sure to people in the United States is ingestion of
11 mercury-contaminated fish;

12 (5) the Environmental Protection Agency re-
13 ports that, as of 2004—

14 (A) 44 States have fish advisories covering
15 over 13,000,000 lake acres and over 750,000
16 river miles;

17 (B) in 21 States the freshwater advisories
18 are statewide; and

19 (C) in 12 States the coastal advisories are
20 statewide;

21 (6) the long-term solution to mercury pollution
22 is to minimize global mercury use and releases to
23 eventually achieve reduced contamination levels in
24 the environment, rather than reducing fish consump-

1 tion since uncontaminated fish represents a critical
2 and healthy source of nutrition worldwide;

3 (7) mercury pollution is a transboundary pollut-
4 ant, depositing locally, regionally, and globally, and
5 affecting water bodies near industrial sources (in-
6 cluding the Great Lakes) and remote areas (includ-
7 ing the Arctic Circle);

8 (8) the free trade of mercury and mercury com-
9 pounds on the world market, at relatively low prices
10 and in ready supply, encourages the continued use
11 of mercury outside of the United States, often in-
12 volving highly dispersive activities such as artisinal
13 gold mining;

14 (9) the intentional use of mercury is declining
15 in the United States as a consequence of process
16 changes to manufactured products (including bat-
17 teries, paints, switches, and measuring devices), but
18 those uses remain substantial in the developing
19 world where releases from the products are ex-
20 tremely likely due to the limited pollution control
21 and waste management infrastructures in those
22 countries;

23 (10) the member countries of the European
24 Union collectively are the largest source of mercury
25 exports globally;

1 (11) the European Union is in the process of
 2 enacting legislation that will prohibit mercury ex-
 3 ports by not later than 2011;

4 (12) the United States is a net exporter of mer-
 5 cury and, according to the United States Geologic
 6 Survey, exported 506 metric tons of mercury more
 7 than the United States imported during the period
 8 of 2000 through 2004; and

9 (13) banning exports of mercury from the
 10 United States will have a notable affect on the mar-
 11 ket availability of mercury and switching to afford-
 12 able mercury alternatives in the developing world.

13 **SEC. 3. PROHIBITION ON SALE, DISTRIBUTION, OR TRANS-**
 14 **FER OF MERCURY BY DEPARTMENT OF DE-**
 15 **FENSE OR DEPARTMENT OF ENERGY.**

16 Section 6 of the Toxic Substances Control Act (15
 17 U.S.C. 2605) is amended by adding at the end the fol-
 18 lowing:

19 “(f) MERCURY.—

20 “(1) PROHIBITION ON SALE, DISTRIBUTION,
 21 AND TRANSFER BY DEPARTMENT OF DEFENSE.—Ef-
 22 fective as of the date of enactment of this sub-
 23 section, the Secretary of Defense may not convey,
 24 sell, distribute, or otherwise transfer to any other
 25 department or agency of the Federal Government,

1 any State or local government, or any private person
 2 or entity any elemental mercury under the control or
 3 jurisdiction of the Department of Defense.

4 “(2) PROHIBITION ON SALE, DISTRIBUTION,
 5 AND TRANSFER BY DEPARTMENT OF ENERGY.—Ef-
 6 fective as of the date of enactment of this sub-
 7 section, the Secretary of Energy may not convey,
 8 sell, distribute, or otherwise transfer to any other
 9 department or agency of the Federal Government,
 10 any State or local government, or any private person
 11 or entity any elemental mercury under the control or
 12 jurisdiction of the Department of Energy.

13 “(3) EXCEPTION.—The prohibitions in para-
 14 graphs (1) and (2) shall not apply to the transfer of
 15 elemental mercury to any storage or other facility
 16 established under section 12(c)(3).”.

17 **SEC. 4. PROHIBITION ON EXPORT OF MERCURY.**

18 Section 12 of the Toxic Substances Control Act (15
 19 U.S.C. 2611) is amended—

20 (1) in subsection (a) by striking “subsection
 21 (b)” and inserting “subsections (b) and (c)”; and

22 (2) by adding at the end the following:

23 “(c) PROHIBITION ON EXPORT OF MERCURY.—

1 “(1) ELEMENTAL MERCURY.—Effective Janu-
2 ary 1, 2010, the export of elemental mercury from
3 the United States is prohibited.

4 “(2) EXTENSION OF PROHIBITION TO MERCURY
5 COMPOUNDS.—

6 “(A) IN GENERAL.—Beginning on January
7 1, 2010, the President may prohibit the export
8 of any mercury compound from the United
9 States as necessary—

10 “(i) to avoid subversion of the mer-
11 cury ban; and

12 “(ii) to achieve the full force and ef-
13 fect of the prohibition under paragraph
14 (1).

15 “(B) NOTICE TO CONGRESS.—

16 “(i) IN GENERAL.—If the President
17 exercises the authority in subparagraph
18 (A), the President shall notify Congress.

19 “(ii) REQUIREMENTS.—A notification
20 under clause (i) shall describe—

21 “(I) each mercury compound the
22 export of which from the United
23 States will be prohibited; and

24 “(II) a justification of the prohi-
25 bition of export of each compound.

1 “(3) STORAGE OF EXCESS MERCURY.—

2 “(A) ESTABLISHMENT OF STORAGE CA-
3 PACITY.—In order to implement the prohibition
4 on the export of elemental mercury under para-
5 graph (1) and the prohibition, if any, on the ex-
6 port of mercury compounds under paragraph
7 (2), the President shall establish the capacity
8 (including 1 or more storage facilities) to store
9 safely such elemental mercury and mercury
10 compounds covered by the prohibitions as are in
11 excess of quantities necessary for domestic con-
12 sumption.

13 “(B) REGULATIONS.—The establishment
14 and operation of facilities to provide the capac-
15 ity required by subparagraph (A) shall be gov-
16 erned by such regulations as the President may
17 prescribe for purposes of this paragraph.

18 “(4) INAPPLICABILITY OF UNREASONABLE RISK
19 REQUIREMENT.—Subsection (a) shall not apply to
20 this subsection.”.

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